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APPLICATION AND OPERATION

1. Title

1.1 This Agreement is to be known as the Mallee Hay Pty Ltd Enterprise Agreement 2019 (the Agreement) and is made pursuant to the Fair Work Act 2009 (Cth) (the Act).

2. Scope and Application

2.1 This Agreement applies to persons employed by Mallee Hay Pty Ltd in any of the job classifications as set out in Clause 23.1.

2.2 This Agreement incorporates and applies wholly in conjunction with the Food, Beverage and Tobacco Manufacturing Award 2010 (the Award).

2.3 Where there is an inconsistency between an express provision of this Agreement and a provision in the Modern Award, the provisions of this Agreement shall prevail to the extent of the inconsistency.

2.4 The terms of this Agreement apply in a manner that does not exclude the National Employment Standards (NES). Where there is an inconsistency between the NES and this Agreement, the NES shall apply.

3. Parties

3.1 The parties to this Agreement are:

(a) Mallee Hay Pty Ltd, ABN 73 123 956 089 (“the Company”); and

(b) Employees of the Company whose job classifications are within the scope and application of this Agreement.

4. Period of Operation

4.1 This Agreement is to take effect from the first full pay period on or 7 days after approval by Fair Work Australia. The nominal expiry date of this Agreement is the 31st December 2022.

4.2 The parties agree to commence negotiating for a new agreement at least 3 months prior to the nominated expiry date detailed in clause 4.1.

5. Variation

5.1 Notwithstanding the provisions of clause 6, if during the period of operation of this Agreement the parties by discussion and consent wish to vary this Agreement, the variation will be processed in accordance with Part 2-4, Division 7, Sections 207 and 208 of the Fair Work Act 2009.

6. No Further Claims

6.1 The parties agree that they will not pursue extra claims within the period of operation of this Agreement.

6.2 This Agreement covers all matters and all claims regarding the employment of the employees which could otherwise be the subject of protected action pursuant to the Act, and the parties to this Agreement will not engage in protected action in relation to the performance of any work covered by this Agreement.
Equal Opportunity And Anti-Discrimination

7.1 It is the intention of all parties to this Agreement to respect and value the diversity of the work force by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin. Any dispute concerning these matters and their operation will be progressed initially under the Grievances and Disputes procedure in clause 43.

8. Definitions

“Agreement” means “Mallee Hay Pty Ltd Enterprise Agreement 2019”.

“Authorised witness” for the purposes of witnessing a statutory declaration means a professional who has authority under law to witness a statutory declaration.

“Base rate of pay” means the minimum hourly rate as specified in Clause 23.1 according to the classification the employee is employed at.

“Commission” means Fair Work Commission.

“Company” means Mallee Hay Pty Ltd (ABN 73 123 956 089).

“Documentary evidence” means a medical certificate signed by a registered or licensed medical practitioner or a statutory declaration declared to be true in the presence of an authorised witness.

“Employee” means an employee of the Company whose job classification is within the scope and application of this Agreement.

“Manager” means a Company employee who holds a position with supervisory or managerial responsibilities.

“Pro-rata basis” means in proportion to the number of hours a part-time employee is engaged to work per week, divided by thirty-eight (38).

“Regular night shift” A employee working regular (majority) rostered shifts which require work on Sundays and Public holidays over a yearly period.

“Rostered shift” means any shift of which the employee concerned has had at least 48 hours notice.

“Serious misconduct” wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment and/or conduct that causes serious and imminent risk to the health or safety of a person(s).


9. Flexibility

9.1 The Company and an employee covered by this Agreement may agree to make an individual flexibility arrangement, to vary the effect of terms of the Agreement if:

(a) The agreement deals with 1 or more of the following matters:

(i) arrangements about when work is performed;
(ii) overtime rates;
(iii) penalty rates;
(iv) allowances;
(v) leave loading; and

(b) The arrangement meets the genuine needs of the employer and employee, in relation to 1 or more of the matters mentioned in paragraph (a); and

(c) The arrangement is genuinely agreed to by the employer and employee.

9.2 The Company must ensure that the terms of the individual flexibility arrangement:

(a) are about permitted matters, under section 172 of the Act;
(b) are not unlawful terms, under section 194 of the Act; and
(c) result in the employee being better off overall than the employee would be if no arrangement was made.

9.3 The Company must ensure that the individual flexibility arrangement:

(a) is in writing;
(b) includes the name of the employer and employee; and
(c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
(d) includes details of:
   (i) the terms of the enterprise agreement that will be varied by the arrangement; and
   (ii) how the arrangement will vary the effect of the terms; and
   (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
   (iv) states the day on which the arrangement commences.

9.4 The Company must give the employee a copy of the individual flexibility arrangement, within 14 days, after it is agreed to.

9.5 If the Company initiates discussions or proposes to enter into an arrangement with an employee, they must provide a written proposal to the employee. Where the employee’s understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

9.6 Before discussing any proposed individual flexibility arrangement with an employee, the Company must advise the employee that they may be represented in those discussions by a representative of their choice. A representative’s involvement in the process does not mean that their consent is required prior to reaching agreement in relation to an individual flexibility arrangement.

9.7 The Company or employee may terminate the individual flexibility arrangement:

(a) by giving not more than 28 days written notice to the other party of the arrangement; or

(b) if the employer and employee agree in writing - at any time.
10. **Types of Employment**

10.1 The Company may offer by way of an employment contract, employment on the following basis:

(a) Permanent Full-time; or
(b) Permanent Part-time; or
(c) Fixed Term; or
(d) Casual.

10.2 The employment of a new permanent employee will be subject to a probation period of 6 months from the commencement of employment.

10.3 A part-time employee is engaged to work on a part-time basis involving a regular pattern of hours which average less than 38 ordinary hours per week. Employment on a part-time basis is subject to the following:

(a) Before commencing, the employee and the Company must agree in writing:
   (i) The part-time hours to be worked by the employee; and
   (ii) The days they will work; and
   (iii) The starting and finishing times for the work; and
   (iv) The classification applying to the work to be performed.

(b) The terms of the part-time engagement may be varied by consent in writing;

(c) A copy of the employment contract and any variation to it will be retained by the Company with a duplicate copy being made available to the employee;

(d) An employer is required to roster a regular part-time employee for a minimum of three consecutive hours on any shift;

(e) A part-time employee will be paid the hourly rate for the classification in which he/she is engaged to perform work;

(f) A part-time employee who works in excess of the daily hours fixed by agreement between the employer and the employee will be paid overtime in accordance with this employment contract; and

(g) Where the part-time employee's normal paid hours fall on a public holiday prescribed by this employment contract and work is not performed by the employee, such employee must not lose pay for the day. Where the employee works on the public holiday, the employee will be paid in accordance with Clause 29.

10.4 A Fixed term employee is an employee who is engaged for a specified period of time. When the agreed end date is reached, the employment contract will automatically expire without either party needing to terminate it.

(a) All terms of this Agreement shall apply to fixed term employees excepting clauses and sub clauses:

<table>
<thead>
<tr>
<th>Clause</th>
<th>Title</th>
<th>Sub-Clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>Redundancy</td>
<td>All</td>
</tr>
</tbody>
</table>

10.5 A Casual employee is an employee who is engaged and is subject to the following:
(a) Casual employment is an employee engaged and paid as such;
(b) There is no limit to the number of engagements or length of time an employee is employed as a casual employee;
(c) A casual employee will be employed or paid for a minimum of 4 hours on each engagement;
(d) A casual employee is paid a minimum hourly rate for the classification in which the employee is engaged to work, plus a casual loading of 25%. The casual loading is paid in lieu of receiving all paid leave including annual leave, personal/carers leave, bereavement leave, compassionate leave and public holidays, to compensate for the nature of casual work. This loading constitutes part of the employee’s all-purpose rate and sets-off any further claim made under the Award or by law for the entitlements listed in this clause. To avoid doubt, the loading amount is taken into account in determining any amount payable by the Company to a casual employee in lieu of one or more relevant NES entitlements;
(e) Casual employment may be terminated by giving 1 hours’ notice; and
(f) All terms of this Agreement shall apply to casual employees excepting Clauses and sub Clauses:

<table>
<thead>
<tr>
<th>Clause</th>
<th>Title</th>
<th>Sub-Clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Ending Employment</td>
<td>All</td>
</tr>
<tr>
<td>12</td>
<td>Redundancy</td>
<td>All</td>
</tr>
<tr>
<td>13</td>
<td>Abandonment of Employment</td>
<td>All</td>
</tr>
<tr>
<td>22</td>
<td>Rosters</td>
<td>22.2</td>
</tr>
<tr>
<td>29</td>
<td>Public Holidays</td>
<td>29.1, 29.4 &amp; 29.5</td>
</tr>
<tr>
<td>30</td>
<td>Annual leave</td>
<td>All</td>
</tr>
<tr>
<td>31</td>
<td>Personal / Carer’s Leave</td>
<td>All</td>
</tr>
<tr>
<td>32</td>
<td>Unpaid Carer’s Leave</td>
<td>32.2</td>
</tr>
<tr>
<td>33</td>
<td>Compassionate Leave</td>
<td>33.1</td>
</tr>
</tbody>
</table>

10.6 The Company may require an employee to undertake different work assignments or job responsibilities during the course of his/her employment, either with the Company or with a subsidiary company, an associated company or associated business or organisation.

10.7 A casual employee, other than an irregular casual employee, who has been engaged on a regular and systematic basis for 6 months or more, has the right to request to have their employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process.

10.8 The casual conversion request and consideration process will be as per the Award.
11. **Ending Employment**

11.1 During the first 6 months of permanent employment (probation period), either the employee or the Company may terminate employment by giving 1 weeks’ notice, or by the Company without notice, by paying 1 weeks’ pay, in lieu of notice.

11.2 At any time after the probation period, employment may be terminated by either the employee or the Company, by giving the required period of notice or by the Company, without notice by making the required payment in lieu of notice, as per Clause 11.3.

11.3 The required period of notice is in accordance with the National Employment Standard.

11.4 When either the employee or the Company has given notice of termination of employment, the Company, at its discretion may require the employee to:

(a) Not perform any work for it;
(b) Not attend the Company’s places of business; or
(c) Perform only those duties which the Company specifies to the employee.

11.5 In addition, the Company has the right to terminate an employee’s employment without notice for serious misconduct or serious or persistent breach of his/her terms or conditions of employment and in such case the employee’s wages and other entitlements will be paid up to the time of termination only. Serious misconduct includes but is not limited to:

(a) Wilful or deliberate behaviour that is inconsistent with the continuation of employment;
(b) Theft, fraud, being purposefully misleading, lying or assault in the course of employment;
(c) Being unfit to perform duties due to unacceptable levels of alcohol or drugs;
(d) Refusing to carry out lawful and reasonable instructions;
(e) Conduct that causes imminent and serious risk to the health or safety of a person; and
(f) Conduct that causes imminent and serious risk to the reputation, viability or profitability of the Company’s business.

12. **Redundancy**

12.1 Redundancy may occur when the Company determines that a position no longer exists as a result of changing operational requirements, the introduction of new technology, economic downturns, mergers, take-overs or restructuring.

12.2 In addition to the period of notice prescribed in Clause 11.3, a permanent employee whose employment is terminated by reason of redundancy is entitled to redundancy pay in accordance with the National Employment Standard.

12.3 Redundancy pay is paid at the permanent employee's base rate of pay for his or her ordinary hours of work, but not including:

(a) Incentive-based payments and bonuses;
(b) Loadings;
(c) Monetary allowances;
(d) Overtime or penalty rates; and
(e) Any other separately identifiable amounts.
12.4 This clause does not apply where an employee is dismissed for serious misconduct. An employee dismissed for serious misconduct will only be entitled to payment for time worked, up to the time of dismissal.

12.5 The Company will not be obliged to make a redundancy payment if suitable alternative employment is obtained for an employee, whether or not that offer of suitable alternative employment is accepted.

12.6 Where the decision has been made that a permanent position is no longer required to meet operational requirements and there is an employee in that position, discussions will take place between the Company and the employee affected on whether or not a suitable alternative position exists.

12.7 Suitable alternative employment is an alternate role that requires similar skills, competencies, location and equal or better remuneration as the employee’s existing role.

12.8 Selection of an employee for suitable alternative employment will be based on the competency and work performance standards of the employee and whether these standards fit with the requirements of the alternative position.

12.9 In the event that there is no suitable alternative position available, a redundancy payment shall be made.

12.10 This clause does not apply to casual or fixed term employees.

13. Abandonment of Employment

13.1 The absence of an employee from work for a continuous period of 3 rostered working days or more without the consent of the employer and without notification to the employer, is evidence that the employee has abandoned their employment.

13.2 If within a period of 14 days from their last attendance at work, or the date of their last absence in respect of which notification has been given or consent has been granted and an employee has not established to the satisfaction of their employer that they were absent for reasonable cause, the employee is deemed to have abandoned their employment.

13.3 In such cases, the employee will be deemed to have resigned. Their notice period will be taken as effective from his/her last day of work, last day of approved leave, or the last day of authorised absence, whichever is the later, and his/her entitlements on termination will be calculated in accordance with their NES entitlements.

14. Deductions

14.1 To the extent permitted by law, all employees authorise the Company to deduct from wages or payment on termination any and all debts owed by the employee to the Company including leave taken in advance, the balance of any outstanding loans advanced by the Company or overpayments made to the employee.

HOURS OF WORK, OVERTIME, WEEKEND WORK, ALLOWANCES AND MEAL BREAKS

15. Hours of work

15.1 Ordinary hours of work for day workers are an average of 38 hours per week not exceeding 152 hours in 28 days.

15.2 Ordinary hours of work are 6.00am to 6.00pm and may be altered up to 1 hour at either side of the spread at the Company’s discretion.
15.3 The days on which ordinary hours are worked, may include Saturday and Sunday subject to agreement between the employer and the majority of the employees concerned. Agreement in this respect may also be reached between the Company and an individual employee.

15.4 Rostered night shift commencing at 6.00pm on a Sunday is ordinary hours and paid at the night shift loading rate for the first 7.6 hours of ordinary time.

15.5 Depending upon production requirements and at the Company’s discretion, weekly shift patterns may be:
(a) 1 week of day shift followed by 1 week of night shift; or
(b) 2 consecutive weeks of day shift, followed by 2 consecutive weeks of night shift.

15.6 The start and finishing time for each shift is as follows:

<table>
<thead>
<tr>
<th>Shift</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day Shift</td>
<td>05:45am – 6:00pm</td>
</tr>
<tr>
<td>Afternoon Shift</td>
<td>Ordinary hours finishing after 6:00pm and at or before midnight</td>
</tr>
<tr>
<td>Night Shift</td>
<td>Ordinary hours finishing after midnight and at or before 8:00am</td>
</tr>
</tbody>
</table>

16. Work on Saturday as Ordinary Hours

16.1 Where agreement has been reached in accordance with 15.3, ordinary time worked on Saturdays will be paid at time and half for all of Saturday.

17. Work on Monday to Friday as Overtime

17.1 All time worked Monday to Friday above 7.6 hours per shift or 38 hours per week, shall be paid at a rate of time and a half for the first three hours and double time thereafter.

17.2 In calculating overtime, each day’s work will stand alone.

18. Work on Saturday, Sunday or Public Holidays as Overtime

18.1 Where overtime is worked on Saturdays, Sundays and public holidays, the hourly rate paid will be as follows:
(a) Saturday - Time and half for first 3 hours and double time after that.
(b) Sunday - Double time.
(c) Public Holidays - Double time and a half. Where a shift falls partly on a public holiday, the shift which has the major portion falling on the public holiday must be regarded as the holiday shift.

19. Shift Allowances

19.1 The following shift allowances apply to this Agreement:
(a) An employee who is rostered on an afternoon or night shift shall be paid an allowance of 20% loading for each shift;
(b) An employee who works an afternoon or night shift that is not rostered shall be paid in accordance with clause 22.2; and
(c) The afternoon or night shift allowance prescribed in Clause 19.1 is not cumulative, meaning that when working, overtime, shift allowance does not apply and only overtime rates apply.
20. **Other Allowances**

20.1 The following other allowances apply to this Agreement:

(a) An employee holding an appropriate first aid qualification and who is rostered on to perform first aid duties will receive a first aid allowance as per the Award;

(b) Travel and kilometre reimbursement shall be as defined by the current Company Travel Policy which is aligned with the relevant Australian Taxation Office published rates; and

(c) The dusty, dirty or fumigation allowance described in the Award is not applicable to this Agreement.

21. **Meal and Rest Breaks**

21.1 Employees working more than 5 hours work are entitled to the following breaks:

(a) A paid crib break of not more than 15 minutes in the first half of the shift, and

(b) An unpaid meal break of not more than 30 minutes mid-shift.

21.2 The actual times that breaks are taken is subject to operational needs, however an employee is not required to work more than 5 hours without a break.

21.3 An employee, other than a casual employee, who has been required to work overtime, will be given a break of 10 consecutive hours prior to commencing their next shift.

21.4 If a permanent employee is required to resume or continue work without having a break of 10 consecutive hours, the employee shall be paid at double time until released from duty.

22. **Rosters**

22.1 In response to operational requirements and at the Company’s discretion, a rostered shift may be varied by the Company by giving a minimum of 48 hours’ notice of the intention to do so.

22.2 In the event that a permanent employee is not given 48 hours’ notice for a shift change, that employee will be paid time and a half for the first 3 hours and double time after that until the end of the shift, for the first shift only. Shift allowances as per clause 19.1 will apply for successive shifts after that first shift has been completed.

22.3 Wherever possible, casual employees will be given a minimum 48 hours notice if there is a shift change or cancellation of a shift.

22.4 In the event a casual employee is not given 48 hours notice of a shift change or cancellation and the casual employee presents for work, the casual employee will be paid for a minimum of 4 hours.
23. **Job Classifications and Minimum Rates of Pay**

23.1 The minimum rates of pay for each job classification are as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Min. hrly rate 1 Jan 2019</th>
<th>Min. hrly rate 1 Jan 2020</th>
<th>Min. hrly rate 1 Jan 2021</th>
<th>Min. hrly rate 1 Jan 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervisor</td>
<td>$28.50</td>
<td>$29.07</td>
<td>$29.65</td>
<td>$30.24</td>
</tr>
<tr>
<td>Leading Hand</td>
<td>$25.00</td>
<td>$25.50</td>
<td>$26.01</td>
<td>$26.53</td>
</tr>
<tr>
<td>Press Operator - Level 1</td>
<td>$23.00</td>
<td>$23.46</td>
<td>$23.93</td>
<td>$24.41</td>
</tr>
<tr>
<td>Press Operator - Level 2</td>
<td>$24.00</td>
<td>$24.48</td>
<td>$24.97</td>
<td>$25.47</td>
</tr>
<tr>
<td>Press Operator - Level 3</td>
<td>$24.50</td>
<td>$24.99</td>
<td>$25.49</td>
<td>$26.00</td>
</tr>
<tr>
<td>Mobile Plant Operator - Level 1</td>
<td>$21.50</td>
<td>$21.93</td>
<td>$22.37</td>
<td>$22.82</td>
</tr>
<tr>
<td>Mobile Plant Operator - Level 2</td>
<td>$22.00</td>
<td>$22.44</td>
<td>$22.89</td>
<td>$23.35</td>
</tr>
<tr>
<td>Mobile Plant Operator - Level 3</td>
<td>$23.50</td>
<td>$23.97</td>
<td>$24.45</td>
<td>$24.94</td>
</tr>
<tr>
<td>Stores/Loader Operator - Level 1</td>
<td>$21.50</td>
<td>$21.93</td>
<td>$22.37</td>
<td>$22.82</td>
</tr>
<tr>
<td>Stores/Loader Operator - Level 2</td>
<td>$22.70</td>
<td>$23.15</td>
<td>$23.62</td>
<td>$24.09</td>
</tr>
<tr>
<td>Stores/Loader Operator - Level 3</td>
<td>$23.90</td>
<td>$24.38</td>
<td>$24.87</td>
<td>$25.36</td>
</tr>
<tr>
<td>General Hand Production - Level 1</td>
<td>$20.50</td>
<td>$20.91</td>
<td>$21.33</td>
<td>$21.75</td>
</tr>
</tbody>
</table>

24. **Wage Increase**

24.1 The minimum rates of pay for each job classification will increase by 2% each year as set out in clause 23.1. Pay increases will be effective from the 1st of January each year.

25. **Payment of Earnings**

25.1 The Company’s pay week is Monday to Sunday and paid fortnightly, in arrears.

25.2 Payment is deposited into an employee’s nominated bank account by close of business, 3 business days following the end of the pay fortnight.

25.3 If an employee’s account is held at a financial institution that will not accept the Company’s banking and payroll arrangements, the employee will be required to establish an account at a financial institution that will. The Company will not be responsible for any establishment or maintenance costs that may be charged by a financial institution, in relation to employees’ accounts.

26. **Superannuation**

26.1 The Company will make contributions to an eligible choice superannuation fund (complying fund) on behalf of employees, in accordance with the provisions of the Superannuation Guarantee (Administration) Act 1992 (Cth).

26.2 Superannuation contributions will be 9.5% of ordinary time earnings.
26.3 In the event that an employee does not exercise their right to choose a superannuation fund or if they fail to do so within the prescribed time, the Company will make contributions on their behalf to the Company nominated superannuation fund.

26.4 The Company makes no guarantee, nor is it required to assure the availability of benefits, from any superannuation fund(s).

27. **Timekeeping**

27.1 Employees are required to use a timecard or any other method to record time as directed by the Company.

27.2 Employees must maintain a daily timecard, or equivalent, recording all start and stop times.

28. **Stand-down Provisions**

28.1 If an employee is unable to be usefully employed due to a strike, breakdown of machinery or any stoppage of work for any cause for which the Company cannot reasonably be held responsible, the Company reserves the right to stand down the employee without pay.

28.2 The stand down of the employee under this clause does not break the continuity of service of the employee, and will count as service for all purposes, except wages.

**LEAVE**

29. **Public Holidays**

29.1 Permanent and Fixed-Term employees are entitled to paid time off work for public holidays, in accordance with the NES. A Part-time employee is entitled to paid time off work for a public holiday, if that public holiday falls on a day the employee is regularly scheduled or rostered to work.

29.2 Public holidays to be observed, as declared by the State of Victoria are the following days:

- New Year’s Day
- Labour Day
- Easter Saturday
- Easter Monday
- Queen’s Birthday
- Melbourne Cup Day
- Boxing Day
- Australia Day
- Good Friday
- Easter Sunday
- Anzac Day
- Friday before AFL Grand Final
- Christmas Day

29.3 The Company may request an employee to work on a public holiday, subject to the following:

(a) An employee will not be requested to work on more than 3 public holidays in a year, unless the employee agrees; and

(b) An employee may refuse, if the refusal is reasonable.

29.4 Permanent employees are paid 7.6 hours per day if not required to work on a rostered public holiday.

29.5 Where a permanent employee works on a public holiday, by agreement between the Company and the employee, an alternative paid day off work, in lieu of the public holiday, may be taken in lieu of the public holiday, on which the employee worked.
29.6 Any employee who works on a public holiday (or the agreed alternative day), on the instructions of the Company, shall be paid at the rate of double time and a half, with a minimum payment of three hours at that rate.

30. **Annual Leave**

30.1 Permanent full-time day shift employees are entitled to 20 days annual leave per annum. Part-time employees are entitled to annual leave on a pro-rata basis.

30.2 Permanent full-time night shift employees, who work regular night shift, will be entitled to an additional 1 week of annual leave where their shift commences on a Sunday.

30.3 An employee qualifies as a shiftworker if;

(a) The employee;

(i) is employed by the Company in a role where shifts are continuously rostered 24 hours a day for 7 days a week; and

(ii) is regularly rostered to work those shifts; and

(iii) regularly works Sundays and public holidays.

(b) the employee is in a class of employees prescribed in accordance with the Act as a shiftworker for the purposes of the National Employment Standards.

30.4 Annual leave is to be taken at dates agreed between an employee and the Company as soon as practicable, after an employee’s entitlement to leave becomes due.

30.5 In circumstances where agreement as to the date(s) of taking leave cannot be reached, the Company and/or the employee must give at least 1 months’ notice of the intention to take or give annual leave. The Company will endeavour to give employees notice of the requirement to take leave, as far in advance as possible.

30.6 Permanent employees are paid the wages they would have received had they not been on leave during that period, including allowances and penalties but excluding overtime, special rates or any other payment which might have been payable as a reimbursement for expenses incurred.

30.7 Permanent employees are paid a leave loading of 17.5%.

30.8 Subject to agreement by the Company, during each 12 month period an employee may elect in writing, to cash out accrued annual leave subject to Clause 30.9, below.

30.9 To qualify to cash out part of annual leave, the employee must have a remaining annual leave balance of 20 days after cash out. The annual leave to be cashed out must have been accrued and will not be approved in advance.

31. **Personal/Carer’s Leave**

31.1 Permanent employees are entitled to 10 days personal/carer’s leave per annum. Part-time employees are entitled to personal/carer’s leave on a pro-rata basis.
31.2 Personal/Carer’s leave is leave without loss of wages when absent due to:

(a) personal illness or personal injury; or

(b) the need to care for an immediate family member or a member of the employee’s household who is sick and who requires the employee’s care and support; or

(c) an unexpected emergency affecting a member of the employee’s immediate family, or household.

31.3 To receive payment for personal/carer’s leave an employee must comply with the notice and documentation requirements detailed in Clauses 31.4, 31.5, 31.6, 31.7, 31.8 and 31.9 below.

31.4 As soon as reasonably practical, the employee must notify the Site Manager or Shift Supervisor if unable to attend work due to the need to take personal/carers leave and the estimated length of absence.

31.5 Before taking carer’s leave, an employee must give notice before his/her next shift, unless he or she has a good reason for not doing so. The notice must include:

(a) The name of the person requiring care and support, and that person’s relationship to the employee;

(b) The reasons for taking such leave; and

(c) The estimated length of absence.

31.6 If it is not practicable for the employee to give prior notice of absence, the employee must notify the Company by telephone within 1 hour after the scheduled shift starting time.

31.7 For any absences, documentary evidence must be provided stating that in the practitioner’s opinion, the member of the immediate family or household has/had a personal injury or illness for that period and is in need of the carer’s support.

31.8 If an employee is absent from work on personal/carers leave for more than 3 single days in a year, and/or absent for 2 or more consecutive days at any time, and or either side of a weekend or public holiday, the employee will be required to substantiate their absence by providing a medical certificate or appropriate documentary evidence.

31.9 Where a permanent employee does not have sufficient personal leave accrued to cover a period of personal/carer’s leave, the employee will be paid using their annual leave accrual. Where the employee has insufficient annual leave accrued, the period of leave will be treated as leave without pay.

31.10 No payment is made in lieu of unused personal/carers leave, either during their employment or on termination of their employment with the Company.

32. Unpaid Carer’s Leave

32.1 All employees (including casual employees), are entitled to 2 days unpaid carer’s leave when a member of their immediate family or household requires care and support due to illness, injury or an unexpected emergency.

32.2 Permanent employees are only eligible for unpaid carer’s leave, if they don’t have any paid personal/carer’s leave left.

32.3 Unpaid carer’s leave can be taken in 1 continuous period (e.g. 2 consecutive working days) or in separate periods agreed between the employee and employer (e.g. 4 consecutive half-days could be taken, so the employee can share caring duties with someone else).
33.  **Compassionate Leave**

33.1 All permanent employees are entitled to 2 days of paid compassionate leave for each occasion when a member of the employee’s immediate family, or a member of the employee’s household:

(a) contracts of develops a personal illness that poses a serious threat to his or her life; or
(b) sustains a personal injury that poses a serious threat to his or her life; or
(c) dies.

33.2 All casual employees are entitled to 2 days of unpaid compassionate leave on each occasion when a member of the employee's immediate family, or a member of the employee’s household:

(a) contracts of develops a personal illness that poses a serious threat to his or her life; or
(b) sustains a personal injury that poses a serious threat to his or her life; or
(c) dies.

33.3 Compassionate leave may also be taken where a natural disaster prevents the employee from attending work.

33.4 An employee may take compassionate leave for each occasion as:

(a) 1 continuous 2 day period, or
(b) 2 separate periods of 2 day each, or
(c) Any separate periods to which the employee and his or her employer agree.

33.5 A permanent employee, who takes compassionate leave, is paid at their base rate of pay for the ordinary hours they would have worked during the period of leave.

34.  **Community Services Leave**

34.1 In accordance with the Act, all employees may be entitled to unpaid community service leave, for participation in an eligible community service activity such as:

(a) jury duty.
(b) voluntary emergency management.
(c) An activity prescribed in accordance with the Act.

34.2 Where an employee attends for jury duty, the Company will make up the difference if any, between the employee’s jury service pay received by the employee from the government, and their ordinary pay, for a maximum period of 10 days.

35.  **Parental Leave**

35.1 Parental leave (maternity, paternity, adoption leave) is unpaid leave, which is granted and arranged in accordance with the provisions of the Act. An employee will be entitled to parental leave in accordance with these provisions.

35.2 To be eligible for such leave, an employee must have had at least 12 months continuous service with the Company immediately preceding the date on which he/she commences leave.

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35.3 Casual employees are also entitled to take 12 months parental leave if they have been employed with an employer on a regular and systematic basis for at least 12 months.

35.4 It is acknowledged and agreed that in circumstances where an employee has not had at least 12 months continuous employment with the Company immediately before the date the employee seeks to commence parental leave; that employee is not entitled to leave in accordance with the provisions of the Act. The Company is under no obligation to grant any other type of paid or unpaid leave to the employee, and his/her employment with the Company may cease when he/she is unable to attend for work and perform the functions of the job.

36. **Long Service Leave**

36.1 All employees are entitled to long service leave, in accordance with the Long Service Leave Act 1992 (Vic).

37. **Family and Domestic Violence leave**

37.1 The Company is committed to assisting employees who are victims of family and domestic violence and who require time off work to attend medical appointments, to seek legal assistance, to attend court, to attend counselling, to relocate or to make other safety arrangements.

37.2 All employees are entitled to up to 5 days unpaid family and domestic violence leave per annum. The full 5 days leave will be available at the start of the calendar year and will not accumulate from year to year. The leave can be taken as:

(a) a single continuous 5 day period;

(b) separate periods of 1 day each up to a total of 5 days; or

(c) any separate periods the employee and the employer agree to.

37.3 **Notice and Evidentiary Requirements**

(a) the employee shall notify the Company as soon as reasonably practicable of their request to take leave under this clause; and

(b) if required by the Company, the employee must provide evidence that would satisfy a reasonable person that the leave is for the purpose as set out in clause 37.1. Such evidence may include a document issued by the police service, a court, a health professional, a family violence support service, a lawyer, a financial institution, an accountant or a statutory declaration.

37.4 The Company shall ensure that any personal information provided by the employee to the employer concerning an employee’s experience of family and domestic violence is kept confidential.

38. **Leave Without Pay**

38.1 Leave without pay is only considered for employees in exceptional circumstances. Each situation is judged on its merits, with the following factors taken into consideration:

(a) length of service with the Company; and

(b) record of performance.

38.2 Where applicable, an employee’s accrued annual leave is to be used, before leave without pay is considered.
38.3 Prior to granting leave without pay which extends beyond one week, employees must obtain approval of the Site Manager or Shift Supervisor.

WORKPLACE HEALTH, SAFETY AND ENVIRONMENT RELATED MATTERS

39. Workplace Health Safety and Environment

39.1 The Company is committed to providing a safe and healthy work environment. The Company will comply with relevant State workplace health, safety and environmental laws and any relevant industry codes of practice.

39.2 Employees must take all practical steps to ensure their own safety while at work, and to ensure that no action, or inaction, by an employee, causes harm to any other person or the environment.

39.3 All employees are responsible to ensure that workplace health safety and environmental rules and procedures are adhered to at all times.

39.4 Employees agree to use the safety and protective equipment or clothing provided and not to misuse any equipment, plant or process that has been provided to ensure workplace health and safety.

39.5 Employees agree to report to the Company as soon as possible, any accidents, incidents or hazards arising, during the course of employment. Any concerns in relation to personal safety or the safety of others in the workplace, should be reported to the Company, which will take all practicable steps to provide and maintain a safe work environment.

39.6 Failure to comply with the workplace health, safety and environment rules and procedures may result in disciplinary action including termination of employment.

40. Personal Protective Equipment

40.1 Where it is necessary and appropriate, the Company will provide at no cost to employees, safety equipment and protective clothing. It is the employees’ responsibility to ensure that all Personal Protective Equipment (PPE) provided, is properly maintained and used at all times while carrying out their duties.

40.2 Audits of PPE may be carried out, at the discretion of the Company. All equipment issued in accordance with this clause, will remain the property of the Company, and will be returned to the Company, when requested, and in the event of termination of employment.

40.3 The Company will provide replacement items, as necessary, as a result of reasonable use and wear, or damage.

41. Uniform

41.1 In accordance with the Company’s policy, the Company will provide permanent employees with a summer and a winter uniform, after an employee has completed 3 month’s service.

42. Drugs and Alcohol

42.1 The Company is committed to providing a safe working environment. An employee affected by alcohol or any other drug will not be permitted to work or operate any equipment. If an employee attends work under the influence of alcohol or drugs, then the Company will arrange to transport the employee home and he/she may be summarily dismissed.
42.2 Employees must inform the Company, prior to commencing work, if they are under the influence of drugs (prescribed or not prescribed), alcohol, or any other substance which may affect their ability to work or to use any of the Company’s equipment.

42.3 Employees agree to adhere to the Company’s Drug and Alcohol policy and to undertake drug and alcohol testing in accordance with this policy. If testing demonstrates the presence of illicit or performance impairing drugs or alcohol in an employee’s system then the employee’s employment may be terminated by the Company.

**GRIEVANCES AND DISPUTES**

43. **Resolution Procedure**

43.1 If any issue, grievance or dispute arises, under this Agreement or the NES under the Act, it must be dealt with in the following manner:

(a) the matter must first be discussed by an employee with his/her immediate supervisor;

(b) if not settled, the matter must be discussed with an employee’s supervisor and the next-up manager, to whom the immediate supervisor reports;

(c) if the matter is not resolved at this level, it must be referred to the Company Manager;

(d) if the matter cannot be resolved through the above internal process, it may be submitted to Fair Work Australia by either party, for the purposes of conciliation, and if necessary, arbitration;

(e) until the matter is resolved, work must continue at the direction of the Company;

(f) no one shall be prejudiced as to a final settlement by the continuance of work, in accordance with this process; and

(g) the parties commit themselves to cooperate in ensuring that these procedures are carried out expeditiously.

43.2 An employee may choose to be represented at any stage, by a person of their choosing.

44. **Consultation**

44.1 This term applies if the Company:

(a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or

(b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

44.2 For a major change referred to in clause 44.1(a):

(a) the Company must notify the relevant employees of the decision to introduce the major change; and

(b) subclauses 44.3 to 44.9 apply.

44.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.
44.4 If;
(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
(b) the employee or employees advise the employer of the identity of the representative;
the employer must recognise the representative.

44.5 As soon as practicable after making its decision, the Company must:
(a) discuss with the relevant employees:
   (i) the introduction of the change; and
   (ii) the effect the change is likely to have on the employees; and
   (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
(b) for the purposes of the discussion - provide, in writing, to the relevant employees:
   (i) all relevant information about the change including the nature of the change proposed; and
   (ii) information about the expected effects of the change on the employees; and
   (iii) any other matters likely to affect the employees.

44.6 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant employees.

44.7 The Company must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

44.8 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in clause 44.2(a) and clauses 44.3 to 44.5 are taken not to apply.

44.9 In this term, a major change is likely to have a significant effect on employees if it results in:
(a) the termination of the employment of employees; or
(b) major change to the composition, operation or size of the Company’s workforce or to the skills required of employees; or
(c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
(d) the alteration of hours of work; or
(e) the need to retrain employees; or
(f) the need to relocate employees to another workplace; or
(g) the restructuring of jobs.

44.10 For a change referred to in clause 44.1(b):
(a) the Company must notify the relevant employees of the proposed change; and
(b) clauses 44.11 to 44.15 apply.
44.11 The relevant employees may appoint a representative for the purposes of the procedures in this term.

44.12 If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the Company of the identity of the representative;

the Company must recognise the representative.

44.13 As soon as practicable after proposing to introduce the change, the Company must:

(a) discuss with the relevant employees the introduction of the change; and

(b) for the purposes of the discussion – provide to the relevant employees:

(i) all relevant information about the change, including the nature of the change; and

(ii) information about what the employer reasonably believes will be the effects of the change on the employees; and

(iii) information about any other matters that the employer reasonably believes are likely to affect the employees.

(c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

44.14 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant employees.

44.15 The Company must give prompt and genuine consideration to matters raised about the change by the relevant employees.

44.16 In this term;

*relevant employees* means the employees who may be affected by a change referred to in clause 44.1.

45. **Availability of Agreement**

45.1 A copy of this Agreement will be made available to employees in a convenient location and upon request.
SIGNED BY THE PARTIES

Signed on behalf of
Mallee Hay Pty Ltd in the presence of